

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17395-A of Jemal's Citadel LLC pursuant to 11 DCMR § 3103.2, for a variance from the rear yard requirements under section 774, a variance from the nonconforming structure requirements under subsection 2001.1, a variance from the requirement to provide a loading berth that is 55 feet deep under subsections 2201.1 and 2201.6, to allow the establishment of a mixed-use project including a grocery store and general offices in an RC/C-2-B zone district at the premises 1631 Kalorama Road, N.W. (Square 2572, Lot 36).

HEARING DATE: November 29, 2005

DECISION DATE: January 10, 2006

FINAL ORDER DATE: June 12, 2006

RECONSIDERATION

DECISION DATE: July 11, 2006

ORDER DENYING RECONSIDERATION

By order issued June 12, 2006, the Board granted approval, subject to conditions, of an application submitted July 1, 2005 by Jemal's Citadel LLC ("Applicant"), the owner of the property that is the subject of the application. The self-certified application requested area variances from requirements applicable to the rear yard, loading berths, and enlargement of a nonconforming structure to allow the redevelopment of an existing building in a mixed-use project that will include a grocery store, retail or service uses, and general offices in the Reed-Cooke/C-2-B zone at 1631 Kalorama Road, N.W. (Square 2572, Lot 36).

Parties in this proceeding are the Applicant, Advisory Neighborhood Commission 1C, and a group comprising the Reed Cooke Neighborhood Association, whose membership includes residents surrounding the Citadel building, and residents living near the subject property in the 1600 block of Kalorama Road or the 2300 block of 17th Street.

On June 26, 2006, the Reed Cooke Neighborhood Association ("RCNA") submitted a motion for reconsideration of the order approving the application. According to RCNA, the order improperly failed to address an issue raised by RCNA concerning the Applicant's plans "to use the subject premises for sales of alcoholic beverages for off-premises consumption," a use that is prohibited in the Reed-Cooke overlay zone.

In a response submitted June 30, 2006, the Applicant argued that RCNA had not provided any new evidence that could not have been presented at the public hearing but had acknowledged that the question of sales of alcoholic beverages for off-premises consumption was "repeatedly raised" at the hearing. The Applicant urged denial of RCNA's motion for reconsideration for failure to meet the standard set forth in § 3126.6 of the Zoning Regulations.

CONCLUSIONS OF LAW

The Board is not persuaded that its final decision to approve the application with conditions was in error. As noted by RCNA in its motion, the Applicant's request for variances did not include a request for relief from the prohibition against off-premises alcoholic beverage sales applicable in the Reed Cooke overlay zone. *See* 11 DCMR § 1401.1(b). Thus, notwithstanding RCNA's assertions at the public hearing, the potential for off-premises alcoholic beverages sales was not an issue in this proceeding. The order granting the requested zoning relief – area variances related to rear yard, nonconforming structure, and loading requirements – did not also grant a variance from the prohibition against off-premises alcoholic beverage sales set forth in § 1401.1(b); no such relief was sought by the Applicant or considered by the Board.

Accordingly, it is therefore ORDERED that the motion for reconsideration is DENIED.

VOTE: **5-0-0** (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., Gregory Jeffries, and John A. Mann II (by absentee vote) to deny the motion)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member approved the issuance of this order.

ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: **DEC 14 2006**

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

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BZA APPLICATION NO. 17395-A

As Director of the Office of Zoning, I hereby certify and attest that on **DECEMBER 14, 2006**, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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